



Julie Quinn
Justin E. Alsterberg
Natalie Maples

22

FACSIMILE TRANSMISSION

April 25, 2017

SEC. 24

TO: 19th JDC Fax Filing

FAX: 225-389-3392

FROM: Justin Alsterberg

FAX: 504-302-9360
PHONE: 504-324-6601

**RE: Darla Keys, Jill Cheramie as Mother and Exutrix
on behalf of Korte Cheramie and Daniel
Waddoups vs. US Xpress, John Doe and Allstate
Fire and Casualty Insurance Co., 19th JDC, No.**

PAGES: 6 including this one.

IN CASE OF DIFFICULTY IN RECEIVING TRANSMISSION, CONTACT:

Peggy O'Connell: (504) 304-2647

CONFIDENTIALITY NOTICE

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EBR4131645

EXHIBIT

2

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

CASE NO.: _____

DIVISION " _____ "

DARLA KEYS, JILL CHERAMIE AS MOTHER AND EXECUTRIX ON BEHALF OF
KORTE CHERAMIE, AND DANIEL WADDOUPS

VERSUS

U.S. XPRESS, INC., JOHN DOE, AND ALLSTATE FIRE AND CASUALTY INSURANCE
COMPANY

FILED: _____

DEPUTY CLERK

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes Plaintiffs Darla Keys, Jill Cheramie on behalf of Korte Cheramie, and Daniel Waddoups who petition this Court for damages and respectfully allege as follows:

1.

Plaintiff Darla Keys is a person of the full age of majority and a Louisiana resident domiciled in Orleans Parish, Louisiana.

2.

At the time of the accident, Plaintiff Korte Cheramie was a person of the full age of majority and a Louisiana resident domiciled in Orleans Parish, Louisiana. Plaintiff Korte Cheramie subsequently died, and is represented herein by his next of kin Jill Cheramie, his mother and, on information and belief, the Executrix of the Succession of Korte Cheramie.

3.

Plaintiff Jill Cheramie is a person of the full age of majority and a Louisiana resident, domiciled in Orleans Parish, Louisiana.

4.

Plaintiff Daniel Waddoups is a person of the full age of majority and a Texas resident domiciled in Tarrant County.

5.

Made Defendant herein is U.S. Xpress, Inc., a foreign corporation domiciled in the state of Nevada with a registered office in the Parish of East Baton Rouge, Louisiana.

6.

Made Defendant herein is John Doe, a person of the full age of majority who was an employed driver of Defendant U.S. Xpress, Inc. His domicile is unknown at this time.

7.

The accident made subject of this Petition occurred in Gregg County, Texas.

8.

Venue is proper in this Court pursuant to La. C.C.P. art. 42 because Defendant is a foreign corporation with a registered office in Baton Rouge.

9.

On April 26, 2016, Plaintiff Daniel Waddoups was driving his motor vehicle east on Interstate 20 in Gregg County, Texas.

10.

Plaintiff Korte Cheramie was driving a motor vehicle, along with Darla Keys as passenger directly behind Mr. Waddoups.

11.

Defendant John Doe was driving an eighteen-wheeler owned by Defendant U.S. Xpress directly behind Plaintiffs Keys and Cheramie.

12.

Both Mr. Waddoups and Mr. Cheramie slowed their vehicles as traffic stopped due to an accident. John Doe failed to slow down and struck Mr. Cheramie's vehicle from behind pushing him into the back of Mr. Waddoups vehicle.

13.

Plaintiffs pulled their vehicles to the right shoulder of the road, and John Doe told Mr. Cheramie and Ms. Keys that he would wait for them at the next exit to exchange information.

14.

John Doe failed to arrive at the next exit.

15.

The above described accident was caused solely by the negligence of John Doe—U.S. Xpress' employee who was acting within the course and scope of employment—which is more particularly described as follows:

- a. Failing to maintain proper lookout;
- b. Failing to see what should have been seen;
- c. Failing to yield;
- d. Careless operation of a motor vehicle; and
- e. Other acts of negligence.

16.

As a result of the impact, Plaintiff Keys suffered multiple and serious injuries affecting her neck, shoulder, back and right knee. She was diagnosed with aggravation of chronic back pain.

17.

As a result of the impact, Plaintiff Cheramie suffered radiating pain. He was diagnosed with soft tissue injuries, injuries to the spinal discs and muscle spasms. Ultimately, Cheramie died.

18.

As a result of the impact, Plaintiff Waddoups suffered damage to his vehicle.

19.

Plaintiffs Keys and Cheramie are entitled to recover damages their physical pain and suffering, mental pain and suffering, medical expenses, past, present, and future, and permanent injury.

20.

Plaintiffs Keys and Cheramie's damages are each in excess of \$50,000.00 exclusive of cost and interest.

21.

Plaintiff Waddoups is entitled to recover damages to his vehicle, all costs of repair, and rental car reimbursement while his vehicle is being repaired.

22.

At all relevant times, U.S. Xpress maintained a policy of self-insurance under which the negligent acts of their employee, John Doe, are covered.

23.

At all relevant times, Allstate Fire and Casualty Insurance Company issued a valid and outstanding policy of underinsured motorist protection in favor of Plaintiffs Darla Keys and Korte Cheramie under which said policy Allstate Fire and Casualty Insurance Company has agreed to pay for any and all claims for damages by the negligence of an underinsured motorist as a result of a motor vehicle accident. Accordingly, Plaintiffs have a right of direct action against Allstate Fire and Casualty Insurance Company as their underinsured motorist carrier.

WHEREFORE, Plaintiffs pray that Defendants be duly cited and served with a copy of the Petition and that after due proceedings are had there be judgment rendered herein in favor of Plaintiffs Darla Keys, Jill Cheramie on behalf of Korte Cheramie, and Daniel Waddoups, and against Defendants U.S. Xpress, Inc. and John Doe in an amount sufficient to adequately compensate them for their damages together with legal interest thereon from the date of judicial demand until paid, for all costs of this suit, for penalties and attorney's fees provided by La. R.S. §§ 22:1892, 22:1973 and for all other general and equitable relief deemed appropriate by this Court. Plaintiffs request a jury trial on all issues triable by jury.

Dated: January 11, 2017

Respectfully submitted:

QUINN ALSTERBERG, LLC

JULIE QUINN (#21923)

JUSTIN E. ALSTERBERG (#31015)

855 Baronne Street

New Orleans, Louisiana 70113

Telephone: (504) 522-5607

Facsimile: (504) 302-9360

Counsel for Darla Keys, Korte Cheramie,
and Daniel Waddoups

FILED

APR 25 2017

DeLay Hawkin
DEPUTY CLERK OF COURT

<p>PLEASE SERVE:</p> <p>U.S. Xpress, Inc. Through its Registered Agent Corporation Service Company 501 Louisiana Ave. Baton Rouge, LA 70802</p>	<p>PLEASE SERVE:</p> <p>Allstate Fire and Casualty Insurance Company Through the LA Secretary of State 8585 Archives Avenue Baton Rouge, LA 70809</p>
---	---

**DOUG WELBORN**

CLERK OF COURT

PARISH OF EAST BATON ROUGE

Suit Accounting Department
P. O. Box 1991
Baton Rouge, LA 70821-1991
Telephone: (225) 389-3982
Fax: (225) 389-3392
www.ebrclerkofcourt.org

FAX RECEIPTFROM: **SUIT ACCOUNTING DEPARTMENT**DATE: **Apr 25, 2017**FAX NUMBER: **(225) 389-3392**SUIT NO.: **657399**TO: **JULIE QUINN**SECTION: **24****DARLA KEYS**vs **US XPRESS**Item(s) Received: **PETITION FOR DAMAGES**Total Amount Due (includes all applicable fees below) \$ **842.00**

The Clerk of Court's Office has received, by facsimile transmission dated **4-25-17**, document(s) in the above referenced case. In accordance with R.S. 13:850(B), within seven days, exclusive of legal holidays, the party filing the document shall forward to the clerk, the original signed document, applicable filing fees and a transmission fee. The fax transmission fee is also required of forma pauperis filings and filings by state/political subdivisions.

Applicable fees are established in accordance with law as follows:

- 13:850(B)(3) A transmission fee of five dollars
- 13:841(A)(2)(a) First page of each pleading, six dollars
- 13:841(A)(2)(b) Each subsequent page, four dollars
- 13:841(A)(2)(c) Paper-exhibits, attachments, transcripts and depositions-per page, two dollars
- 13:841(A)(4)(b) Issuing document without notice of service, fifteen dollars (Receipt generation fee)

**NO FURTHER ACTION WILL BE TAKEN REGARDING THIS DOCUMENT
UNTIL ALL FEES ARE RECEIVED IN THIS OFFICE.**

**SERVICE/SUBPOENA REQUESTS WILL NOT BE ISSUED FROM FAX FILING.
SERVICE WILL BE ISSUED AS A RESULT OF THE FILING OF THE ORIGINAL DOCUMENT(S).**

**IF MAILING ORIGINAL DOCUMENT(S), PLEASE ATTACH THIS RECEIPT TO THE DOCUMENT(S) TO BE FILED.
IF FILING THE ORIGINAL DOCUMENTS IN PERSON, PLEASE NOTIFY THE FILING CLERK OF THE PREVIOUS FAX FILING.**

Deputy Clerk of Court for
Doug Welborn, Clerk of Court

JOHN SWEARINGEN
(Type Name)

**** Transmit Conf. Report ****

P.1

EBR CLERK OF COURT

Fax 2253893392

Apr 25 2017 04:47pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
915043029360	Normal	25:04:47pm	0'37"	1	* O K	



DOUG WELBORN
CLERK OF COURT

PARISH OF EAST BATON ROUGE

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FAX RECEIPT

FROM: SUIT ACCOUNTING DEPARTMENT

DATE: Apr 25, 2017

FAX NUMBER: (225) 389-3392

SUIT NO.: 657399

TO: JULIE QUINN

SECTION: 24

DARLA KEYS

vs US XPRESS

Item(s) Received: PETITION FOR DAMAGES

Total Amount Due (includes all applicable fees below) \$ 842.00

The Clerk of Court's Office has received, by facsimile transmission dated 4-25-17, document(s) in the above referenced case. In accordance with R.S. 13:850(B), within seven days, exclusive of legal holidays, the party filing the document shall forward to the clerk, the original signed document, applicable filing fees and a transmission fee. The fax transmission fee is also required of forma pauperis filings and filings by state/political subdivisions.

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Deputy Clerk of Court for
Doug Welborn, Clerk of Court

JOHN SWEARINGEN
(Type Name)

**** Transmit Conf. Report ****

P.1

EBR CLERK OF COURT

Fax 2253893392

Apr 26 2017 12:21pm

Fax/Phone Number	Mode	Start	Time	Page	Result	Note
915043029360	Normal	26:12:21pm	0'30"	1	* 0 K	



DOUG WELBORN
CLERK OF COURT

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vs US XPRESS

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Deputy Clerk of Court for
Doug Welborn, Clerk of Court

JOHN SWEARINGEN
(Type Name)



DOUG WELBORN
CLERK OF COURT

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**Deputy Clerk of Court for
Doug Welborn, Clerk of Court**

**JOHN SWEARINGEN
(Type Name)**

East Baton Rouge Parish Clerk of Court

Page 1 of 1



Quinn
& Alsterberg

Julie Quinn
Justin E. Alsterberg
James V. King III

April 26, 2017

Clerk of Court
East Baton Rouge Parish
P.O. Box 1991
Baton Rouge, LA 70821-1991

RECEIVED

MAY - 1 2017

ATTENTION: SUIT ACCOUNTING DEPT.

Re: Darla Keys, et al v. U.S. Xpress, Inc., et al
SUIT No. 657399, Section 24

DEPUTY CLERK OF COURT

Dear Sir or Madam:

Enclosed please find an original and 3 copies of Plaintiffs' Petition for Damages that was fax filed yesterday in the above referenced matter. Please file the Petition into the record and return a conformed copy to this firm in the enclosed stamped self-addressed envelope.

Enclosed please find a check in the amount of \$842.00 to cover the costs in connection with filing and service fees. Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

Peggy O'Connell
Paralegal

Enc.

EBR4133186



onne Street
LA 70113

Nev

Office 504-522-5607
Fax 504-561-6775

www.quinnalsterberg.com

REG'D B.R.

MAY 02 2017

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

CASE NO.: 657399

DIVISION 24
SEC. 24

DARLA KEYS, JILL CHERAMIE AS MOTHER AND EXECUTRIX ON BEHALF OF
KORTE CHERAMIE, AND DANIEL WADDOUPS

VERSUS

U.S. XPRESS, INC., JOHN DOE, AND ALLSTATE FIRE AND CASUALTY INSURANCE
COMPANY

FILED: _____

DEPUTY CLERK

PETITION FOR DAMAGES

COST: \$842.00
MAY 11 2017
BY SD
CLERK OF COURT

NOW INTO COURT, through undersigned counsel, comes Plaintiffs Darla Keys, Jill Cheramie on behalf of Korte Cheramie, and Daniel Waddoups who petition this Court for damages and respectfully allege as follows:

1.

Plaintiff Darla Keys is a person of the full age of majority and a Louisiana resident domiciled in Orleans Parish, Louisiana.

2.

At the time of the accident, Plaintiff Korte Cheramie was a person of the full age of majority and a Louisiana resident domiciled in Orleans Parish, Louisiana. Plaintiff Korte Cheramie subsequently died, and is represented herein by his next of kin Jill Cheramie, his mother and, on information and belief, the Executrix of the Succession of Korte Cheramie.

3.

Plaintiff Jill Cheramie is a person of the full age of majority and a Louisiana resident, domiciled in Orleans Parish, Louisiana.

4.

Plaintiff Daniel Waddoups is a person of the full age of majority and a Texas resident domiciled in Tarrant County.

EBR4133087

REC'D C.P.

MAY 02 2017

FAX COPY FILED

ORIGINAL FILED

4/25/17
5/1/17

5.

Made Defendant herein is U.S. Xpress, Inc., a foreign corporation domiciled in the state of Nevada with a registered office in the Parish of East Baton Rouge, Louisiana.

6.

Made Defendant herein is John Doe, a person of the full age of majority who was an employed driver of Defendant U.S. Xpress, Inc. His domicile is unknown at this time.

7.

The accident made subject of this Petition occurred in Gregg County, Texas.

8.

Venue is proper in this Court pursuant to La. C.C.P. art. 42 because Defendant is a foreign corporation with a registered office in Baton Rouge.

9.

On April 26, 2016, Plaintiff Daniel Waddoups was driving his motor vehicle east on Interstate 20 in Gregg County, Texas.

10.

Plaintiff Korte Cheramie was driving a motor vehicle, along with Darla Keys as passenger directly behind Mr. Waddoups.

11.

Defendant John Doe was driving an eighteen-wheeler owned by Defendant U.S. Xpress directly behind Plaintiffs Keys and Cheramie.

12.

Both Mr. Waddoups and Mr. Cheramie slowed their vehicles as traffic stopped due to an accident. John Doe failed to slow down and struck Mr. Cheramie's vehicle from behind pushing him into the back of Mr. Waddoups vehicle.

13.

Plaintiffs pulled their vehicles to the right shoulder of the road, and John Doe told Mr. Cheramie and Ms. Keys that he would wait for them at the next exit to exchange information.

14.

John Doe failed to arrive at the next exit.

15.

The above described accident was caused solely by the negligence of John Doe—U.S. Xpress' employee who was acting within the course and scope of employment—which is more particularly described as follows:

- a. Failing to maintain proper lookout;
- b. Failing to see what should have been seen;
- c. Failing to yield;
- d. Careless operation of a motor vehicle; and
- e. Other acts of negligence.

16.

As a result of the impact, Plaintiff Keys suffered multiple and serious injuries affecting her neck, shoulder, back and right knee. She was diagnosed with aggravation of chronic back pain.

17.

As a result of the impact, Plaintiff Cheramie suffered radiating pain. He was diagnosed with soft tissue injuries, injuries to the spinal discs and muscle spasms. Ultimately, Cheramie died.

18.

As a result of the impact, Plaintiff Waddoups suffered damage to his vehicle.

19.

Plaintiffs Keys and Cheramie are entitled to recover damages their physical pain and suffering, mental pain and suffering, medical expenses, past, present, and future, and permanent injury.

20.

Plaintiffs Keys and Cheramie's damages are each in excess of \$50,000.00 exclusive of cost and interest.

21.

Plaintiff Waddoups is entitled to recover damages to his vehicle, all costs of repair, and rental car reimbursement while his vehicle is being repaired.

22.

At all relevant times, U.S. Xpress maintained a policy of self-insurance under which the negligent acts of their employee, John Doe, are covered.

23.

At all relevant times, Allstate Fire and Casualty Insurance Company issued a valid and outstanding policy of underinsured motorist protection in favor of Plaintiffs Darla Keys and Korte Cheramie under which said policy Allstate Fire and Casualty Insurance Company has agreed to pay for any and all claims for damages by the negligence of an underinsured motorist as a result of a motor vehicle accident. Accordingly, Plaintiffs have a right of direct action against Allstate Fire and Casualty Insurance Company as their underinsured motorist carrier.

WHEREFORE, Plaintiffs pray that Defendants be duly cited and served with a copy of the Petition and that after due proceedings are had there be judgment rendered herein in favor of Plaintiffs Darla Keys, Jill Cheramie on behalf of Korte Cheramie, and Daniel Waddoups, and against Defendants U.S. Xpress, Inc. and John Doe in an amount sufficient to adequately compensate them for their damages together with legal interest thereon from the date of judicial demand until paid, for all costs of this suit, for penalties and attorney's fees provided by La. R.S. §§ 22:1892, 22:1973 and for all other general and equitable relief deemed appropriate by this Court. Plaintiffs request a jury trial on all issues triable by jury.

Dated: January 11, 2017

Respectfully submitted:

QUINN ALSTERBERG, LLC

Julie Quinn
JULIE QUINN (#21923)

JUSTIN E. ALSTERBERG (#31015)

855 Baronne Street

New Orleans, Louisiana 70113

Telephone: (504) 522-5607

Facsimile: (504) 302-9360

*Counsel for Darla Keys, Korte Cheramie,
and Daniel Waddoups*

FILED
EAST BATON ROUGE PARISH, LA
2017 MAY -1 PM 2:51
DEPUTY CLERK OF COURT

PLEASE SERVE:

**U.S. Xpress, Inc.
Through its Registered Agent
Corporation Service Company
501 Louisiana Ave.
Baton Rouge, LA 70802**

PLEASE SERVE:

**Allstate Fire and Casualty Insurance
Company
Through the LA Secretary of State
8585 Archives Avenue
Baton Rouge, LA 70809**

2402-17-010045

CITATION

DARLA KEYS ET AL
(Plaintiff)

vs.

U.S. XPRESS INC ET AL
(Defendant)

NUMBER C657399 SECTION 24

19th JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

TO: U.S. XPRESS, INC.
THROUGH ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY
501 LOUISIANA AVE.
BATON ROUGE, LA 70802

GREETINGS:

Attached to this citation is a certified copy of the petition*. The petition tells you what you are being sued for.

You must EITHER do what the petition asks OR, within fifteen (15) days after you have received these documents, you must file an answer or other legal pleading in the office of the Clerk of Court at 300 North Boulevard, Baton Rouge, Louisiana. If you do not do what the petition asks, or if you do not file an answer or legal pleading within fifteen (15) days, a judgment may be rendered against you without further notice.

This citation was issued by the Clerk of Court for East Baton Rouge Parish on 11-MAY-2017.



Joey Hewitt
Deputy Clerk of Court for
Doug Welborn, Clerk of Court

Requesting Attorney: JULIE QUINN

*The following documents are attached:
PETITION FOR DAMAGES

SERVICE INFORMATION:

Received on the _____ day of _____, 20____ and on the _____ day of _____, 20____, served on the above named party as follows:

PERSONAL SERVICE: On the party herein named at _____.

DOMICILIARY SERVICE: On the within named _____, by leaving the same at his domicile in this parish in the hands of _____, a person of suitable age and discretion residing in the said domicile at _____.

SECRETARY OF STATE: By tendering same to the within named, by handing same to _____.

DUE AND DILIGENT: After diligent search and inquiry, was unable to find the within named _____ or his domicile, or anyone legally authorized to represent him.

RETURNED: Parish of East Baton Rouge, this _____ day of _____, 20____.

SERVICE: \$ _____
MILEAGE \$ _____
TOTAL: \$ _____

Deputy Sheriff
Parish of East Baton Rouge

CITATION - 2402



EBR4164411

2424-17-004682

CITATION**DARLA KEYS ET AL**
(Plaintiff)**NUMBER C657399 SECTION 24****vs.****19th JUDICIAL DISTRICT COURT****PARISH OF EAST BATON ROUGE****U.S. XPRESS, INC., ET AL**
(Defendant)**STATE OF LOUISIANA****TO: ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY
THROUGH THEIR AGENT FOR SERVICE OF PROCESS:
THE SECRETARY OF STATE OF LOUISIANA****GREETINGS:**

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You must EITHER do what the petition asks OR, within fifteen (15) days after you have received these documents, you must file an answer or other legal pleading in the office of the Clerk of Court at 300 North Boulevard, Baton Rouge, Louisiana.

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Tracy Hewitt
Deputy Clerk of Court for
Doug Welborn, Clerk of Court

Requesting Attorney: JULIE QUINN

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SECRETARY OF STATE: By tendering same to the within named, by handing same to _____.

DUE AND DILIGENT: After diligent search and inquiry, was unable to find the within named _____ or his domicile, or anyone legally authorized to represent him.

RETURNED: Parish of East Baton Rouge, this _____ day of _____, 20____.

SERVICE: \$ _____
MILEAGE: \$ _____
TOTAL: \$ _____

Deputy Sheriff
Parish of East Baton Rouge

CITATION - 2424



EBR4164414

2402-17-010045

CITATION

DARLA KEYS ET AL
(Plaintiff)

vs.

U.S. XPRESS INC ET AL
(Defendant)

NUMBER C657399 SECTION 24

19th JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

TO: U.S. XPRESS, INC.
THROUGH ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY
501 LOUISIANA AVE.
BATON ROUGE, LA 70802

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Deputy Clerk of Court for
Doug Welborn, Clerk of Court

Requesting Attorney: JULIE QUINN

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Received on the _____ day of _____, 20____, made service on the _____ day of _____, 20____, served on the above named party as follows:

PERSONAL SERVICE: On the party herein named at _____

DOMICILIARY SERVICE: On the within named _____, a person of suitable age and discretion residing in the said domicile at _____, Parish of East Baton Rouge, Louisiana.

SECRETARY OF STATE: By tendering same to the within named, by handing same to _____.

DUE AND DILIGENT: After diligent search and inquiry, was unable to find the within named _____ or his domicile, or anyone legally authorized to represent him.

RETURNED: Parish of East Baton Rouge, this _____ day of _____, 20____.

SERVICE: \$ _____
FILEAGE: \$ _____
TOTAL: \$ _____

Deputy Sheriff
Parish of East Baton Rouge

CITATION - 2402

EBR4041374



EBR4164411

2424-17-004682

CITATION

DARLA KEYS ET AL
(Plaintiff)

vs.

U.S. XPRESS, INC., ET AL
(Defendant)

NUMBER C657399 SECTION 24

19th JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

**TO: ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY
THROUGH THEIR AGENT FOR SERVICE OF PROCESS:
THE SECRETARY OF STATE OF LOUISIANA**

GREETINGS:

Attached to this citation is a certified copy of the petition*. The petition tells you what you are being sued for.

You must EITHER do what the petition asks OR, within fifteen (15) days after you have received these documents, you must file an answer or other legal pleading in the office of the Clerk of Court at 300 North Boulevard, Baton Rouge, Louisiana.

If you do not do what the petition asks, or if you do not file an answer or legal pleading within fifteen (15) days, a judgment may be rendered against you without further notice.

This citation was issued by the Clerk of Court for East Baton Rouge Parish on 11-MAY-2017.



Tracy Hewitt
Deputy Clerk of Court for
Doug Welborn, Clerk of Court

Requesting Attorney: JULIE QUINN

Also attached are the following documents:
PETITION FOR DAMAGES

SERVICE INFORMATION:

Received on the _____ day of _____, 20____ and on the _____ day of _____, 20____, served on the above named party as follows:

SECRETARY OF STATE: By tendering same to the within named, by handing same to _____.

DUE AND DILIGENT: After diligent search and inquiry, was unable to find the within named _____ or his domicile, or anyone legally authorized to represent him.

RETURNED: Parish of East Baton Rouge, this _____ day of _____.

SERVICE: \$ _____
MILEAGE \$ _____
TOTAL: \$ _____

by tendering a copy of this document to
JULIE NESSITT
Deputy Sheriff, Parish of East Baton Rouge, Louisiana
MAY 16 2017
Office of the Secretary of State
CITATION - 2424
TAMMY GLOVER
MEGHAN SHANKS

EBR4041430



EBR4164414

RALPH R. ALEXIS, III
ADRIANNE L. BAUMGARTNER
GLENN B. ADAMS
WM. RYAN ACOMB
FRED M. TROWBRIDGE, JR.
WILLIAM C. LOZES
CHARLES L. CHASSAIGNAC, IV
MICHAEL G. GEE
DAN RICHARD DORSEY
JAMES R. NIESET, JR.
NICHOLAS C. CRISTINA
BRYAN J. HAYDEL, JR.
MATTHEW L. MANN
DARRIN AL O'CONNOR
MICHELE TROWBRIDGE BARRECA

EMAIL ADDRESS OF WRITER
bhaydel@phjlaw.com

DIRECT DIAL OF WRITER

DIRECT FAX OF WRITER

PLEASE REPLY TO:

BATON ROUGE

PORTEOUS, HAINKEL AND JOHNSON, L.L.P.

343 THIRD STREET, SUITE 302
BATON ROUGE, LOUISIANA 70801-1309
TELEPHONE 225-383-8900
FACSIMILE 225-383-7900

WWW.PIDLAW.COM

704 CARONDELET STREET
NEW ORLEANS, LOUISIANA 70139
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FACSIMILE 504-581-4069

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COVINGTON, LOUISIANA 70433-2920
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211 WEST FIFTH STREET
THIBODAUX, LOUISIANA 70301-3199
TELEPHONE 985-446-8451
FACSIMILE 985-447-3064

C. GORDON JOHNSON, JR. (Retired)
JAMES S. THOMPSON (Retired)
CLAUDIS T. JENKINS (Of Counsel)
WILLIAM A. PORTEOUS, JR. (1899-1969)
F. CARTER JOHNSON, JR. (1905-1964)
JOHN J. HAINKEL, JR. (1938-2005)
WILLIAM A. PORTEOUS, III (1937-2006)

NANCY L. CROMARTIE
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EMILY S. MORRISON
ELEANOR W. WALL
GORDON P. GUTHRIE, III
LEANDRO R. AREA
SAMUEL P. BAUMGARTNER
KELLY R. ENGLERT
MICHELLE D. BROOKS
BRENDAN P. CONNICK
KRISTOPHER M. GOULD*
KELSEY L. JARRETT
KELLY R. GRINTON
ADRIENNE D. RACHEL
MARLA E. MITCHELL
MATTHEW E. SIMMONS
JADE ENNIS
ANDREW G. WEST
J. MURPHY DELAUNE
MICHAEL B. GUERRY
NICHOLAS J. GUARISCO
AMY L. McINNIS

*Also Licensed in North Carolina

June 5, 2017

Honorable J. Douglas Welborn
19th Judicial District Court
P. O. Box 1991
Baton Rouge, LA 70821-1991

Re: Darla Keys, et al, v. U.S. Xpress, Inc., et al
19th JDC No. 657,399, Div. 1 / SECTION 24
Our File No.: 2600.0509

Dear Sir:

Enclosed herewith please find an original and one copy of an *Answer to Petition for Damage and Jury Order* and *Request for Written Notice* relative to the above captioned matter. Please file the original into the suit record, favoring us with a conformed copy of same.

I have enclosed my firm's check in the amount of \$300.00 to cover the fees associated with this request.

Thanking you in advance for your usual cooperation and courtesies in this matter.

Sincerely,


BRYAN J. HAYDEL, JR.

BJH/gls

Enclosures

cc: Ms. Julie Unangst Quinn – *Via Email*
Mr. Cory Powell – Claim #0452328528 – *Via Email*

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NO. 657,399

DIVISION: "I / SECTION 24"

DARLA KEYS, JILL CHERAMIE AS MOTHER AND
EXECUTRIX ON BEHALF OF KORTE CHERAMIE AND DANIEL WADDOUPS

versus

U.S. XPRESS, INC., JOHN DOE, AND
ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY

FILED: _____
DEPUTY CLERK

ANSWER TO PETITION FOR DAMAGES AND JURY ORDER

NOW INTO COURT, through undersigned counsel, comes ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, (hereinafter referred to as "respondent") and, in response to the Petition for Damages filed by DARLA KEYS, JILL CHERAMIE AS MOTHER AND EXECUTRIX ON BEHALF OF KORTE CHERAMIE AND DANIEL WADDOUPS, pleads as follows:

Respondent denies each and every allegation contained in the Petition for Damages except such as may be hereinafter specifically admitted, as follows:

1.

Paragraph 1 of the Petition for Damages does not require a response on the part of respondent; however, out of an abundance of caution a general denial is pled.

2.

As to Paragraph 2 of the Petition for Damages, respondent admits its name and status only. All remaining allegations contained in Paragraph 2 of the Petition for Damages are denied.

3.

As to Paragraph 3 of the Petition for Damages, respondent admits its name and status only. All remaining allegations contained in Paragraph 3 of the Petition for Damages are denied.

4.

As to Paragraph 4 of the Petition for Damages, respondent admits its name and status only. All remaining allegations contained in Paragraph 4 of the Petition for Damages are denied.

1244/2600.0509

5.

Paragraph 5 of the Petition for Damages does not require a response on the part of respondent; however, out of an abundance of caution a general denial is pled.

6.

Paragraph 6 of the Petition for Damages does not require a response on the part of respondent; however, out of an abundance of caution a general denial is pled.

7.

The allegations contained in Paragraph 7 of the Petition for Damages are denied.

8.

Paragraph 8 of the Petition for Damages does not require a response on the part of respondent; however, out of an abundance of caution a general denial is pled.

9.

The allegations contained in Paragraph 9 of the Petition for Damages are denied for lack of sufficient information upon which to justify a belief.

10.

The allegations contained in Paragraph 10 of the Petition for Damages are denied.

11.

The allegations contained in Paragraph 11 of the Petition for Damages are denied.

12.

The allegations contained in Paragraph 12 of the Petition for Damages are denied.

13.

The allegations contained in Paragraph 13 of the Petition for Damages are denied.

14.

The allegations contained in Paragraph 14 of the Petition for Damages are denied.

15.

The allegations contained in Paragraph 15 of the Petition for Damages are denied.

16.

The allegations contained in Paragraph 16 of the Petition for Damages are denied.

17.

The allegations contained in Paragraph 17 of the Petition for Damages are denied.

18.

The allegations contained in Paragraph 18 of the Petition for Damages are denied.

19.

The allegations contained in Paragraph 19 of the Petition for Damages are denied.

20.

The allegations contained in Paragraph 20 of the Petition for Damages are denied.

21.

The allegations contained in Paragraph 21 of the Petition for Damages are denied.

22.

The allegations contained in Paragraph 22 of the Petition for Damages are denied for lack of sufficient information upon which to justify a belief.

23.

The allegations contained in Paragraph 23 of the Petition for Damages are denied as written. Respondent submits that prior to the date of the alleged subject accident, it issued a policy of automobile insurance in the name of Darla Keys, having issued such policy of insurance containing many conditions, provisions and exclusions limiting and defining the coverage afforded by the policy and respondent specifically pleads all of the terms and conditions of the policy. All remaining allegations contained in Paragraph 23 of the Petition for Damages are denied.

To the extent the prayer of the Petition for Damages requires an answer on the part of respondent, a general denial is pled.

AND NOW, further answering the allegations of the Petition for Damages, respondent pleads as follows:

24.

Respondent denies that plaintiffs' damages are equal or in excess of an amount properly triable before a jury; however, in the event that plaintiffs' causes of action exceed the jurisdictional threshold for a trial by jury, then respondent desires a jury trial on all issues herein.

1244/2600.0509

25.

Respondent denies any liability whatsoever in the premise of the Petition for Damages.

26.

Respondent submits that the sole and/or proximate cause of the subject accident was the fault and/or negligence on the part of Darla Keys.

27.

In the event, and only in the event, this court should conclude that respondent is liable as to any allegations contained in the Petition for Damages, which is denied, then in such event, respondent pleads the benefit of comparative fault, including but not limited to plaintiffs' comparative fault in the reduction to plaintiffs' claims for damages.

28.

Further pleading in the alternative, respondent shows that it is entitled to a credit or offset of any sums paid to plaintiffs by any person, firm or insurer liable to plaintiffs for all or any portion of plaintiffs' damages, if any.

29.

To the extent the evidence may so indicate and in order to preserve the affirmative defense, res specifically asserts the provisions of the Medicare Secondary Payer Act, 42 USC 1395, *et seq.*, the Medicare, Medicaid and SCHIP Extension Act of 2007, 31 USCS 3711, *et seq.*, 45 CFR 30, *et seq.*, and 42 CFR 411, *et seq.* Specifically, respondent alleges that the failure of the plaintiff to provide official and definitive documentation from the Center for Medicare and Medicaid Services regarding the amount of any Medicare lien (and/or lack thereof) and/or the amount of any required set-aside (and/or lack thereof), is an affirmative defense to any state law requirement to make an unconditional tender of any Uninsured or Underinsured Motorist Coverage and/or any Medical Payments Coverage.

30.

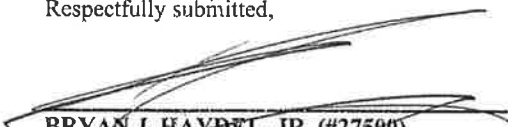
Further pleading in the alternative, respondent affirmatively pleads the failure of plaintiffs to mitigate their damages, if any.

31.

Respondent reserves the right to assert additional affirmative defenses as discovery progresses.

WHEREFORE, respondent, **ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY**, prays that after all legal delays and due proceedings are had there be judgment herein in its favor rejecting and denying the demands of plaintiffs at plaintiffs' sole cost and for all other general and equitable relief necessary and proper in the premise.

Respectfully submitted,



BRYAN J. HAYDEL, JR. (#27500)

KELLY R. ENGLERT (#34536)

KIRK D. PFEFFERLE (#35281)

Porteous, Hainkel & Johnson, L.L.P.

343 Third Street, Suite 302

Baton Rouge, LA 70801-1309

Direct Telephone: (225) 336-8920

Direct Fax: (225) 336-8929

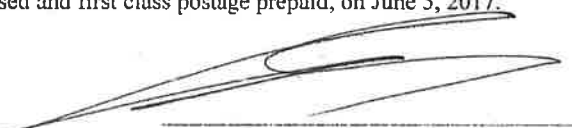
bhaydel@phjlaw.com

kenglert@phjlaw.com

kpfefferle@phjlaw.com

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the above and foregoing pleading on all counsel of record by electronic filing, electronic means, hand delivery, or by mailing same by United States Mail, properly addressed and first class postage prepaid, on June 5, 2017.



BRYAN J. HAYDEL, JR.

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO. 657,399

DIVISION: "I / SECTION 24"

**DARLA KEYS, JILL CHERAMIE AS MOTHER AND
EXECUTRIX ON BEHALF OF KORTE CHERAMIE AND DANIEL WADDOUPS**

versus

**U.S. XPRESS, INC., JOHN DOE, AND
ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY**

FILED: _____
DEPUTY CLERK

JURY ORDER

UPON considering the premises,

LET this matter be fixed for jury trial. The amount and time for filing a Jury Cost Bond
will be fixed when the case is set for trial.

BATON ROUGE, LOUISIANA, this _____ day of _____, 2017.

**JUDGE R. MICHAEL CALDWELL
19th JUDICIAL DISTRICT COURT
FOR THE PARISH OF EAST BATON ROUGE**

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO. 657,399

DIVISION: "I / SECTION 24"

DARLA KEYS, JILL CHERAMIE AS MOTHER AND
EXECUTRIX ON BEHALF OF KORTE CHERAMIE AND DANIEL WADDOUPS

versus

U.S. XPRESS, INC., JOHN DOE, AND
ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY

FILED: _____

DEPUTY CLERK

REQUEST FOR WRITTEN NOTICE

Pursuant to Article 1572 of the Louisiana Code of Civil Procedure, **ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY**, hereby requests written notice of the date set for trial of the above numbered and entitled cause, or of the date set for trial of any pleadings or motions therein, at least ten (10) days before any trial. We also request notice of the signing of any final Judgment or the rendition of any interlocutory order or Judgment in said cause as provided by Article 1913 and 1914 of the Louisiana Code of Civil Procedure.

Respectfully submitted,



BRYAN J. HAYDEL, JR. (#27500)

KELLY R. ENGLERT (#34536)

KIRK D. PFEFFERLE (#35281)

Porteous, Hainkel & Johnson, L.L.P.

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bhaydel@phjlaw.com

kenglert@phjlaw.com

kpfefferle@phjlaw.com

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the above and foregoing pleading on all counsel of record by electronic filing, electronic means, hand delivery, or by mailing same by United States Mail, properly addressed and first class postage prepaid, on June 5, 2017.



BRYAN J. HAYDEL, JR.